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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,599	01/23/2002	Scott C. Harris	Visual-Dbase	6412

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EXAMINER

HALIM, SAHERA

ART UNIT PAPER NUMBER

2157

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/683,599

Applicant(s)

HARRIS, SCOTT C.

Examiner

Sahera Halim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

DETAILED ACTION

1. This Office Action is in response to communication filled on September 13, 2006.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crill et al. U.S. Pat. No. 6,445,822 (hereinafter Crill) in view of U.S. Pat. No. 7,007,076 to Hess et al (hereinafter Hess).

4. Reference to claim 1, Crill teaches a system, comprising:

a client which allows entry of image information (col. 5, line 10 – 30 and Fig. 1, numeral 102, Crill teaches in step 102 creating search images that the user wants to search), and

a server, including a database associated with the server, said server connected to said client to receive said image information (col. 5, lines 34 – 37, Crill teaches candidate images maybe located on one or more centralized or distributed application servers, database servers, website servers or other devices) and using said image information to search said database associated with the server which meet criteria

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specified in said image information (col. 5, lines 9 – 30 and Fig. 1 and 2, Crill teaches comparing reference image with candidate image) and forming search results based on said image information (Fig. 1, numeral 108 and col. 5, lines 22 – 25, 108 provides to the user the results of comparison and the degree of matching and correlation).

Although the system disclosed by Crill shows substantial features of the claimed invention (discussed above), it fails to explicitly teach that a sever for items to be purchased. Nonetheless these limitations are well known in the art and would have been an obvious modification of the system disclosed by Hess. Hess teaches a sever for items to be purchased (abstract and Fig. 2-3). Given the teachings of Crill and Hess, it would have been obvious for a person having ordinary skill in the art at the time the invention was made to combine Crill and Hess in order to allow prospective purchaser to make a more informed decision by providing an improved user interface for online commerce sites (col. 2, line 1-10).

5. Regarding 10, Crill teaches a method, comprising:

entering image information to a client on the network (col. 5, line 10 – 30 and Fig. 1, numeral 102, Crill teaches in step 102 creating search images that the user wants to search); and

sending said image information to a server on said network and using said image information to search database information on said server on said network (col. 5, lines 34 – 37, Crill teaches candidate images maybe located on one or more centralized or distributed application servers, database servers, website servers or other

devices and see col. 5, lines 9 – 30 and Fig. 1 and 2, where Crill teaches comparing reference image with candidate image)); and returning search results from said server to said client (Fig. 1, numeral 108 and col. 5, lines 22 – 25, 108 provides to the user the results of comparison and the degree of matching and correlation). Nonetheless, Crill fails to teach returning search results from said server to said client included price information associated with items in said search results. However, Hess teaches returning search results from said server to said client included price information associated with items in said search results (See Fig. 1 and 9A) There it would have been obvious for a person having ordinary skill in the art at the time of the invention to include price information because it would have allowed the user to make informed decisions (col. 2, lines 1 –7).

6. Reference to claim 2, Crill teaches wherein said client allows forming initial image information, and subsequently setting parameters associated with said initial image information using a user interface (see col.6, line 56 – 30).

7. As to claims 3 and 13, Crill teaches wherein one of said parameters associated with said image information includes exclusion information to exclude from said search results, and said server forms said search results which do not include said exclusion information (see col.7, line 17 – 31, when cropping the image, it is excluding. The cropping is done to a reference image which an image that is going to be searched).

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8. Claim 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crill in view of Hess and further in view of Jain et al, U.S Pat. No. 5,893,095 (hereinafter Jain). Crill teaches, wherein one of said parameters includes a selection of a more important image portion, which is more important than other image portions, (see. Col. 18, line 63 – col. 19, line 11). Crill and Hess do not explicitly teach said client forms search results which are weighted according to said more important image portion. However, Jain discloses said client forms search results which are weighted according to said more important image portion (see col. 3, line 30 – 40). Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to combine the teachings of Crill, Hess and Jain in order to show the most similar image, eliminating the need for searching through all the results by the user.

9. Regarding claims 5 and 15, Crill wherein one of said parameters includes an image size, and said client forms search results which only include results having said specified image size (col. 7, line 17 – 31).

10. As to claim 6, Crill teaches a system as in claim 2, wherein said client includes a scanner to allow entry of said initial image information (col. 6, line 56 – 66).

11. Reference to claim 7, Crill teaches a system as in claim 2, wherein said client includes a tablet to allow entry of said initial image information (col. 6, line 56 – 66).

12. As to claim 8, Crill teaches a system as in claim 2, wherein one of said parameters associated with said image information includes a color, and said server operates to find items based on said color information in addition to said image information (col. 7, line 1 –16)

13. Regarding claim 9, Crill does not explicitly teach wherein said server is associated with an electronic commerce site, and said search results include price information for items associated with said search results. However, these limitations are well known in the art and would have been an obvious modification of the system disclosed by Crill, as evidenced by Hess. Hess teaches search results include price information for items associated with said search results (see Fig. 1 and 9A). Given the teachings of Crill and Hess, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Crill by the well known or conventional features of online shopping such as disclosed by Hess, in order to enable the user to make informed decisions.

14. Claim 11, has similar limitations as to claim 2, therefore, it is rejected under the same rationale of claim 2.

15. As to claim 14, Crill discloses a method as in claim 13, wherein said exclusion information includes image information (see col.7, line 17 – 31).

16. Reference to claim 16, Crill teaches a method as in claim 11, further comprising displaying said image information as part of a graphical user interface, and using said graphical user interface to enter said parameters (Fig. 2 and col. 6, line 56 – col. 7, line 16).

17. Claim 17 has similar limitations as to claims 1 and 10 and although claims 1 and 10 are not identical of claim 17, claim 17 does not further teach or differ over the limitations thought by claims 1 and 10. Therefore, claim 17 is rejected under the same rational as claims 1 and 10.

18. Regarding claim 18, Crill teaches wherein searching image information includes an image, and additional information about the searching, in addition to said image (col. 6, line 56 – 31).

19. Claim 19 has the same limitations as claims 3 and 13, thus it is rejected under the same rational.

20. Claim 20 has the same limitations as claim 8; therefore, it is rejected under the same rational.



### ***Response to Arguments***

21. Applicant's arguments filed September 13, 2006 with respect to claims 1-20 have been fully considered but they are not persuasive.

In reference to claims 1, 10 and 17, the applicant argues that Crill fails to teach "purchasing of items of which meet criteria specified in said image information" and price information of claims 10 and 17. Moreover the applicant argues that Hess "teaches nothing about carrying out that database search using image-based techniques" In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Crill teaches a server, including a database associated with the server, said server connected to said client to receive said image information (col. 5, lines 34 – 37, Crill teaches candidate images maybe located on one or more centralized or distributed application servers, database servers, website servers or other devices) and using said image information to search said database associated with the server which meet criteria specified in said image information (col. 5, lines 9 – 30 and Fig. 1 and 2, Crill teaches comparing reference image with candidate image) and forming search results based on said image information (Fig. 1, numeral 108 and col. 5, lines 22 – 25, 108 provides to the user the results of comparison and the degree of matching and

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correlation). The examiners have admitted that Crill does not teach "finding items to be purchased" and "price information". However, "finding items to be purchased" and "price information" are thought by Hess (see numeral 4, and 5 of previous rejection).

Response to the applicant's argument that the applicant's motivation is "nonsense", the examiner disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation or reason is found in the secondary reference (see col. 2, line 1-10).

Therefore, it would have been obvious for a person having ordinary skill in the art at the time the invention was made to combine Crill and Hess in order to allow prospective purchaser to make a more informed decision by providing an improved user interface for online commerce sites (col. 2, line 1-10).

22. The applicant argues that "Hess does not discuss how one does searching for the items" and "Hess teaches nothing about searching the database of images". Again in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871

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(CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The primary reference, Crill teaches those limitations (see the above rejection). The examiner does not rely upon Hess for these limitations.

23. Claims 3, 4, 9, and 12 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action.

Accordingly, claims 1-20 are respectfully rejected.

### **Conclusion**

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (571) 272-4003. The examiner can normally be reached on M-F from 8:30-5:00.

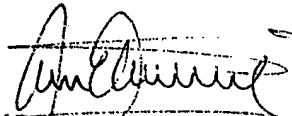
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sahera Halim  
Patent Examiner

November 16, 2006

  
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